

**THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CRIMINAL CASE NO. 1:08-cr-00016-MR**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MATTHEW JAMES DURY,

Defendant.

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ORDER

THIS MATTER is before the Court on the Defendant's "Freedom of Information Act Request" [Doc. 75].

The Defendant requests disclosure of the following information: "In my case # 1:08-cr-16-MR-1, was my case prosecuted [sic] under common law jurisdiction, admiralty jurisdiction, or maritime jurisdiction? Same question for my case # 1:12-cv-351-MR." [Doc. 75 at 1].

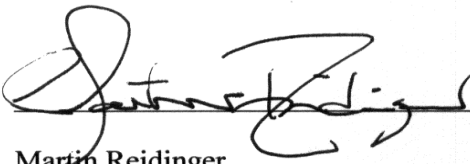
The Defendant's request is more in the nature of a legal question than a proper request for government records under the Freedom of Information Act. Even if the Defendant's request were proper under FOIA, however, it still must be denied. The Defendant entered into a plea agreement in this case pursuant to which he agreed to waive "all rights, whether asserted directly or by a representative, to request or to receive from any department


or agency of the United States any records pertaining to the investigation or prosecution of this case, including without limitation any records that may be sought under the Freedom of Information Act, 5 U.S.C. § 552, or the Privacy Act of 1974, 5 U.S.C. § 552a.” [Doc. 11 at 5 ¶ 20]. This waiver thus precludes the pending motion. See United States v. Lucas, 141 F. App’x 169, 170 (4th Cir. 2005) (per curiam).¹

IT IS, THEREFORE, ORDERED that the Defendant’s “Freedom of Information Act Request” [Doc. 75] is hereby **DENIED**.

IT IS SO ORDERED.

Signed: June 9, 2016


Martin Reidinger
United States District Judge



¹ In any event, federal courts are expressly excluded from the definition of “agency” for purposes of FOIA and Privacy Act disclosure requirements. 5 U.S.C. § 551(1)(B); Gayle v. Johnson, 275 F. App’x 211, 212 n.1 (4th Cir. 2008) (per curiam); Sheppard v. Revell, No. 5:09-CT-3044-FL, 2010 WL 3672261, at *4 (E.D.N.C. Sept. 20, 2010).